IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22532 of 2004

Between:

M/s Narsai Highway Filling Station, Plot No. A2, Industrial Estate, Main Road,NH-9
Patancheru, Medak District, rep. by its Proprietor, S.M. Sushil Kumar.

..... PETITIONER

AND

M/s Indian Oil Corporation Ltd, Divisional Office:3-6-436 to 438, II Floor,
"Naspur House", Himayatnagar, Hyderabad -029, rep. by its Chief Divisional Retail Sales Manager, Mr. M.F. Rahaman.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari, or any other appropriate writ, order or direction, declaring the Notice of the Respondent vide No. SDO/R/265 Dt. 22-11-2004 basing on a Report pertaining to only one Sample tested contrary to Rule 193 of the Petroleum Rules 2002 as illegal and arbitrary and further quash the same.

Counsel for the Petitioner:MR.C.RAGHU

Counsel for the Respondent : MR.P.V.SANJAY KUMAR & Mr.K.RANGA DAS, STANDING COUNSEL

The Court made the following :

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ORDER:

This writ petition is filed questioning the show-cause notice dated 22.11.2004 issued by the respondent, calling upon the petitioner to give an explanation as to why action should not be taken against the petitioner as the sample drawn from his shop was not meeting the specifications with respect to Kinematic Viscocity at 40 degrees C.

The learned counsel for the petitioner vehemently contended that there is no basis for issuing such a show cause notice and the same is in contrary to the provisions of the Rule 193 of Petroleum Products Rules, 2002 and therefore, prays to quash the proceedings.

On the other hand, the learned counsel for the respondent contended that the petitioner was issued with only a show cause notice and if the contents of the same are not in accordance with the said Rules, the petitioner is at liberty to give his explanation.

As a matter of fact, explanation was given by the petitioner and

the respondent has to take appropriate decision. At the same time, normally this Court will not interfere with the show cause notice unless it is shown that the person who issued the notice has no jurisdiction or authority to issue. The authority of the respondent-corporation in issuing the show cause notice is not under challenge.

In the circumstances, since the petitioner has already submitted his explanation to the show cause notice, the respondent-corporation has to take an appropriate decision basing on the explanation and also considering the material available on record.

Accordingly, the writ petition is disposed of with a direction to the respondent-corporation to take an appropriate decision, in accordance with law. Till then, no coersive steps should be taken.

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08.12.2004

bsv

To

1. Mr. M.F. Rahaman, Chief Divisional Retail Sales Manager,.

   "Naspur House", Himayatnagar, Hyderabad -029,

2. 2 CD copies